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ATTORNEYS FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

CV '10 1194  AC

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

CIVIL ACTION NO. _____

Plaintiff,

COMPLAINT

v.

AMERICANS WITH DISABILITIES ACT
ACTION (42 U.S.C. § 12117(a))

SOUTH BASIN PACKING, LLC.,

JURY TRIAL DEMAND

Defendant.

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Ermin Godinez, who was adversely affected by such practices. The Equal Employment

EEOC v. South Basin Packing, LLC
Complaint - 1

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Opportunity Commission alleges that South Basin Packing, LLC. ("Defendant") discriminated against Mr. Godinez, a qualified individual with a disability, when it terminated him because of his disability.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Oregon.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. 2000e-5(f)(1).

4. At all relevant times, Defendant South Basin Packing, LLC. has continuously been doing business in the State of Oregon and has continuously had at least 15 employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, Defendant has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Ermin Godinez filed a charge with the Commission alleging violations of Title I of the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least August 2008, Defendant has engaged in unlawful employment practices, in violation of Sections 102(a) and 102(b)(6) of Title I of the ADA, 42 U.S.C. §§ 12112(a) and 12112(b)(6). The Defendant discriminated against Ermin Godinez, a qualified individual with a disability, when it terminated him because of his disability, in violation of Section 102(a) of the ADA.

9. On or about August 8, 2008, Ermin Godinez disclosed to Defendant that he had a physical impairment. Ermin Godinez' physical impairment substantially limits him in at least one major life activity and therefore is a disability within the meaning of the ADA. Defendant fired Godinez because of his disability on the same day Ermin Godinez disclosed his disability to the Defendant.

10. Defendant terminated Ermin Godinez on or about August 8, 2008 also because it regarded Mr. Godinez' physical impairment as substantially limiting in one or more major life activities.

11. The effect of the practices complained of in paragraph 8-10 above has been to deprive Mr. Godinez of equal employment opportunities and otherwise adversely affect his status as an employee.

12. The unlawful employment practices complained of in paragraph 8 above were and are intentional.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, agents, successors, assigns, and all persons in active concert or participation with it, from unlawfully failing to provide equal employment opportunities to applicants for employment and employees with disabilities and to accommodate applicants' and employees' disabilities, and any other employment practice which discriminates on the basis of disability.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Ermin Godinez by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant to make whole Ermin Godinez by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 8-11 above, including past and future out-of-pocket losses, in amounts to be determined at trial.

E. Order Defendant to make whole Ermin Godinez by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 8-11 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay Ermin Godinez punitive damages for its malicious and reckless conduct, as described in paragraphs 8-11 above in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

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JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its

complaint.

DATED this 28th day of September, 2010.

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